



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
DARRELL V. MCGRAW, JR.  
CONSUMER PROTECTION DIVISION  
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# Press Release

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## FOR IMMEDIATE RELEASE

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### **Attorney General McGraw Settles With Data Collection Company; Improved Privacy Safeguards Adopted As Result**

Attorney General Darrell McGraw today announced a settlement that requires safeguards for the collection and use of student personal information. The agreement was reached as a result of a multistate investigation that included 35 other states and the District of Columbia. The states alleged that Educational Research Center of America, Inc. ("ERCA"), a New Jersey company, offered gift cards to educators for distributing student surveys and collected student personal information in surveys but failed to disclose to students and their parents how to opt out of sharing the personal information.

ERCA surveys ask high school and junior high students to provide information such as their ethnic background, honors won, participation in sports and extracurricular activities, the religious affiliation of a college they would choose, if any, and other information. ERCA offered educators \$40 and \$50 gift cards from companies including Staples, VISA, and Office Max in an attempt to entice educators to have students complete surveys, the states said, and ERCA received hundreds of thousands of surveys completed by students.

Student information obtained by ERCA was marketed and provided to colleges and other educational institutions, but also to commercial businesses that market products and services to students. Such commercial use of the information was disclosed to educators and students, but how to opt out of such marketing was not disclosed to students or to parents of students under 18.

Under the agreement with the states, ERCA must clearly disclose how students or parents of students under 18 can opt out of students' completing the survey, and ERCA must not offer anything of monetary value to educators relating to collection of personal information from students. Such practices are especially important, the states said, because information gathered by ERCA from students sometimes is sold for commercial marketing purposes. "Under the West Virginia

Governmental Ethics Act, public officials and public employees are prohibited from using their offices for their own personal gain or the gain of others, and there are strict restrictions on the receipt of gifts." Attorney General McGraw stated.

The Attorneys General of 36 states and the District of Columbia joined in the settlement with ERCA: Alabama, Arkansas, Arizona, Connecticut, Delaware, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wyoming, and District of Columbia.

For more information about this or other consumer protection matters, contact the Attorney General's Consumer Protection Division at 1-800-368-8808 or [www.wvago.gov](http://www.wvago.gov). For questions about governmental ethics, contact the West Virginia Ethics

Commission at 1-866-558-0664.

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